

SERVICEMEMBERS CIVIL RELIEF ACT

ACT OCT. 17, 1940, CH. 888, 54 STAT. 1178

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CODIFICATION

The Servicemembers Civil Relief Act, comprising sections 501 to 515 and 516 to 596 of this Appendix, was originally enacted as act Oct. 17, 1940, ch. 888, 54 Stat. 1178, known as the Soldiers' and Sailors' Civil Relief Act of 1940, and amended by acts Oct. 6, 1942, ch. 581, 56 Stat. 769; July 3, 1944, ch. 397, 58 Stat. 722; Apr. 3, 1948, ch. 170, 62 Stat. 160; June 23, 1952, ch. 450, 66 Stat. 151; July 11, 1956, ch. 573, 70 Stat. 528; Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105; Pub. L. 86-721, Sept. 8, 1960, 74 Stat. 820; Pub. L. 87-771, Oct. 9, 1962, 76 Stat. 768; Pub. L. 89-358, Mar. 3, 1966, 80 Stat. 12; Pub. L. 92-546, Oct. 24, 1972, 86 Stat. 1074; Pub. L. 102-12, Mar. 18, 1991, 105 Stat. 34; Pub. L. 104-106, Feb. 10, 1996, 110 Stat. 188; Pub. L. 107-107, Dec. 28, 2001, 115 Stat. 1012; Pub. L. 107-350, Dec. 6, 2002, 116 Stat. 2820. Sections of the act Oct. 17, 1940, are shown herein, however, as having been added by Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2835, without reference to the intervening amendments listed above because of the extensive revision of act Oct. 17, 1940, by Pub. L. 108-189.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1918

Former provisions on this subject were contained in act Mar. 8, 1918, ch. 20, 40 Stat. 440, known as the Soldiers' and Sailors' Civil Relief Act of 1918, section 101 et seq. of this Appendix.

§ 501. Short title

This Act [sections 501 to 596 of this Appendix] may be cited as the "Servicemembers Civil Relief Act".

(Oct. 17, 1940, ch. 888, § 1(a), as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2835.)

PRIOR PROVISIONS

A prior section 501, act Oct. 17, 1940, ch. 888, § 1, 54 Stat. 1178, provided that this Act could be cited as the

Soldiers' and Sailors' Relief Act of 1940, prior to the general amendment of this Act by Pub. L. 108-189.

EFFECTIVE DATE

Pub. L. 108-189, § 8, Dec. 19, 2003, 117 Stat. 2866, provided that: "The amendment made by section 1 [enacting sections 501 to 515 and 516 to 596 of this Appendix] shall apply to any case that is not final before the date of the enactment of this Act [Dec. 19, 2003]."

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-97, § 1, Nov. 11, 2009, 123 Stat. 3097, provided that: "This Act [amending sections 568, 571, and 595 of this Appendix and enacting provisions set out as notes under sections 568, 571, and 595 of this Appendix] may be cited as the 'Military Spouses Residency Relief Act'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-12, § 1, Mar. 18, 1991, 105 Stat. 34, provided that: "This Act [enacting sections 518, 592, and 593 of this Appendix, amending sections 511 to 513, 515, 516, 525, 526, 530 to 532, 534, 535, 540 to 545, 547, 564 to 567, 570, 574, 580, 581, 584, and 591 of this Appendix and sections 2021 and 2024 of Title 38, Veterans' Benefits, repealing section 548 of this Appendix, and enacting provisions set out as notes under sections 521 and 530 of this Appendix and sections 2021 and 2024 of Title 38] may be cited as the 'Soldiers' and Sailors' Civil Relief Act Amendments of 1991'."

SHORT TITLE OF 1942 AMENDMENT

Act Oct. 6, 1942, ch. 581, § 1, 56 Stat. 769, provided: "That this Act [enacting sections 514 to 517, 526, 533 to 535, 574, and 590 of this Appendix and amending sections 513, 525, 530 to 532, 540 to 542, 560, 569, and 572 of this Appendix] may be cited as the 'Soldiers' and Sailors' Civil Relief Act Amendments of 1942'."

§ 502. Purpose

The purposes of this Act [sections 501 to 515 and 516 to 596 of this Appendix] are—

(1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

(Oct. 17, 1940, ch. 888, § 2, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2836.)

TITLE I—GENERAL PROVISIONS

PRIOR PROVISIONS

A prior section 510, act Oct. 17, 1940, ch. 888, art. I, § 100, 54 Stat. 1179, stated purpose of this Act, prior to the general amendment of this Act by Pub. L. 108-189.

§ 511. Definitions

For the purposes of this Act [sections 501 to 515 and 516 to 596 of this Appendix]:

(1) Servicemember

The term "servicemember" means a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10, United States Code.

(2) Military service

The term "military service" means—

such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

(Pub. L. 109-163, div. A, title VI, §690, Jan. 6, 2006, 119 Stat. 3337.)

REFERENCES IN TEXT

The Servicemembers Civil Relief Act, referred to in subsecs. (a) and (c), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, as amended, which is classified to section 501 et seq. of this Appendix. For complete classification of this Act to the Code, see section 501 of this Appendix and Tables.

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2006, and not as part of the Servicemembers Civil Relief Act which comprises sections 501 to 515 and 516 to 596 of this Appendix.

§516. Extension of rights and protections to reserves ordered to report for military service and to persons ordered to report for induction

(a) Reserves ordered to report for military service

A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III [sections 511 to 515, 516 to 519, 521 to 527, and 531 to 538 of this Appendix] during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for military service (or, if the order is revoked before the member so reports, or the date on which the order is revoked).

(b) Persons ordered to report for induction

A person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III [sections 511 to 515, 516 to 519, 521 to 527, and 531 to 538 of this Appendix] during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

(Oct. 17, 1940, ch. 888, title I, §106, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2839.)

REFERENCES IN TEXT

The Military Selective Service Act, referred to in subsec. (b), is act June 24, 1948, ch. 625, 62 Stat. 604, as amended, which is classified principally to section 451 et seq. of this Appendix. For complete classification of this Act to the Code, see References in Text note set out under section 451 of this Appendix and Tables.

PRIOR PROVISIONS

A prior section 516, act Oct. 17, 1940, ch. 888, art. I, §106, as added Oct. 6, 1942, ch. 581, §4, 56 Stat. 770; amended Pub. L. 102-12, §9(c), Mar. 18, 1991, 105 Stat. 39, related to extension of benefits to persons ordered to report for induction or military service, prior to the general amendment of this Act by Pub. L. 108-189.

§517. Waiver of rights pursuant to written agreement

(a) In general

A servicemember may waive any of the rights and protections provided by this Act [sections 501 to 515 and 516 to 596 of this Appendix]. Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies. In the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

(b) Actions requiring waivers in writing

The requirement in subsection (a) for a written waiver applies to the following:

(1) The modification, termination, or cancellation of--

(A) a contract, lease, or bailment; or

(B) an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage.

(2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that--

(A) is security for any obligation; or

(B) was purchased or received under a contract, lease, or bailment.

(c) Prominent display of certain contract rights waivers

Any waiver in writing of a right or protection provided by this Act [sections 501 to 515 and 516 to 596 of this Appendix] that applies to a contract, lease, or similar legal instrument must be in at least 12 point type.

(d) Coverage of periods after orders received

For the purposes of this section--

(1) a person to whom section 106 [section 516 of this Appendix] applies shall be considered to be a servicemember; and

(2) the period with respect to such a person specified in subsection (a) or (b), as the case may be, of section 106 [section 516 of this Appendix] shall be considered to be a period of military service.

(Oct. 17, 1940, ch. 888, title I, §107, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2839; amended Pub. L. 108-454, title VII, §702, Dec. 10, 2004, 118 Stat. 3624.)

PRIOR PROVISIONS

A prior section 517, act Oct. 17, 1940, ch. 888, art. I, §107, as added Oct. 6, 1942, ch. 581, §4, 56 Stat. 770, related to effect on rights and remedies pursuant to written agreements entered after commencement of military service, prior to the general amendment of this Act by Pub. L. 108-189.

AMENDMENTS

2004--Subsec. (a). Pub. L. 108-454, §702(1), inserted after first sentence: "Any such waiver that applies to

who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

(Oct. 17, 1940, ch. 888, title III, § 303, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2847; amended Pub. L. 110-289, div. B, title II, § 2203(a), July 30, 2008, 122 Stat. 2849.)

AMENDMENT OF SUBSECTIONS (b) AND (c)

For termination of amendment by section 2203(c) of Pub. L. 110-289, see Effective and Termination Dates of 2008 Amendment note below.

PRIOR PROVISIONS

A prior section 533, act Oct. 17, 1940, ch. 888, art. III, § 303, as added Oct. 6, 1942, ch. 581, § 12, 56 Stat. 772, related to settlement of cases involving stayed proceedings to foreclose mortgage on, resume possession of, or terminate contract for purchase of, personal property, prior to the general amendment of this Act by Pub. L. 108-189. See section 534 of this Appendix.

Another prior section 533, act Oct. 17, 1940, ch. 888, art. III, § 303, 54 Stat. 1183, related to stay of action to resume possession of motor vehicle, tractor, or their accessories, encumbered by purchase money mortgage, conditional sales contract, etc., prior to repeal by act Oct. 6, 1942, ch. 581, § 11, 56 Stat. 772.

AMENDMENTS

2008—Subsecs. (b), (c). Pub. L. 110-289 temporarily substituted “9 months” for “90 days” in introductory provisions. See Effective and Termination Dates of 2008 Amendment note below.

EFFECTIVE AND TERMINATION DATES OF 2008 AMENDMENT

Pub. L. 110-289, div. B, title II, § 2203(c), July 30, 2008, 122 Stat. 2850, provided that:

“(1) **EFFECTIVE DATE.**—The amendment made by subsection (a) [amending this section] shall take effect on the date of enactment of this Act [July 30, 2008].

“(2) **SUNSET.**—The amendments made by subsection (a) shall expire on December 31, 2010. Effective January 1, 2011, the provisions of subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act [50 U.S.C. App. 533(b), (c)], as in effect on the day before the date of the enactment of this Act [July 30, 2008], are hereby revived.”

§ 534. Settlement of stayed cases relating to personal property

(a) Appraisal of property

When a stay is granted pursuant to this Act [sections 501 to 515 and 516 to 596 of this Appendix] in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

(b) Equity payment

Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid

to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

(Oct. 17, 1940, ch. 888, title III, § 304, as added Pub. L. 108-189, § 1, Dec. 19, 2003, 117 Stat. 2848.)

PRIOR PROVISIONS

A prior section 534, act Oct. 17, 1940, ch. 888, art. III, § 304, as added Oct. 6, 1942, ch. 581, § 12, 56 Stat. 772; amended Pub. L. 102-12, § 9(9), Mar. 18, 1991, 105 Stat. 40, related to termination of leases by lessees, prior to the general amendment of this Act by Pub. L. 108-189. See section 535 of this Appendix.

§ 535. Termination of residential or motor vehicle leases

(a) Termination by lessee

(1) In general

The lessee on a lease described in subsection (b) may, at the lessee's option, terminate the lease at any time after—

(A) the lessee's entry into military service; or

(B) the date of the lessee's military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.

(2) Joint leases

A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.

(b) Covered leases

This section applies to the following leases:

(1) Leases of premises

A lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 90 days.

(2) Leases of motor vehicles

A lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember's dependents for personal or business transportation if—

(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of not less than 180 days (or who enters military service under a call or order specifying a period of 180 days or less and who, without a break in service, receives orders extending the period of military service to a period of not less than 180 days); or

(B) the servicemember, while in military service, executes the lease and thereafter receives military orders—

(i) for a change of permanent station—
(I) from a location in the continental United States to a location outside the continental United States; or

(II) from a location in a State outside the continental United States to any location outside that State; or

(ii) to deploy with a military unit, or as an individual in support of a military operation, for a period of not less than 180 days.

(c) Manner of termination

(1) In general

Termination of a lease under subsection (a) is made—

(A) by delivery by the lessee of written notice of such termination, and a copy of the servicemember's military orders, to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee); and

(B) in the case of a lease of a motor vehicle, by return of the motor vehicle by the lessee to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee), not later than 15 days after the date of the delivery of written notice under subparagraph (A).

(2) Delivery of notice

Delivery of notice under paragraph (1)(A) may be accomplished—

(A) by hand delivery;

(B) by private business carrier; or

(C) by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee), and depositing the written notice in the United States mails.

(d) Effective date of lease termination

(1) Lease of premises

In the case of a lease described in subsection (b)(1) that provides for monthly payment of rent, termination of the lease under subsection (a) is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice under subsection (c) is delivered. In the case of any other lease described in subsection (b)(1), termination of the lease under subsection (a) is effective on the last day of the month following the month in which the notice is delivered.

(2) Lease of motor vehicles

In the case of a lease described in subsection (b)(2), termination of the lease under subsection (a) is effective on the day on which the requirements of subsection (c) are met for such termination.

(e) Arrearages and other obligations and liabilities

Rents or lease amounts unpaid for the period preceeding the effective date of the lease termination shall be paid on a prorated basis. In the case of the lease of a motor vehicle, the lessor may not impose an early termination charge, but any taxes, summonses, and title and reg-

istration fees and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

(f) Rent paid in advance

Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor (or the lessor's assignee or the assignee's agent) within 30 days of the effective date of the termination of the lease.

(g) Relief to lessor

Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

(h) Penalties

(1) Misdemeanor

Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

(2) Preservation of other remedies

The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

(i) Definitions

(1) Military orders

The term "military orders", with respect to a servicemember, means official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military duty status.

(2) ConUS

The term "continental United States" means the 48 contiguous States and the District of Columbia.

(Oct. 17, 1940, ch. 888, title III, §305, as added Pub. L. 108-189, §1, Dec. 19, 2003, 117 Stat. 2848; amended Pub. L. 108-454, title VII, §704, Dec. 10, 2004, 118 Stat. 3824.)

PRIOR PROVISIONS

A prior section 535, act Oct. 17, 1940, ch. 888, art. III, §305, as added Oct. 6, 1942, ch. 581, §12, 56 Stat. 773; amended Pub. L. 102-12, §9(9), Mar. 18, 1991, 105 Stat. 40, related to protection of assignor of life insurance policy, enforcement of storage liens, and penalties, prior

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§ 55-248.21:1. Early termination of rental agreement by military personnel.

A. Any member of the armed forces of the United States or a member of the National Guard serving on full-time duty or as a Civil Service technician with the National Guard may, through the procedure detailed in subsection B, terminate his rental agreement if the member (i) has received permanent change of station orders to depart 35 miles or more (radius) from the location of the dwelling unit; (ii) has received temporary duty orders in excess of three months' duration to depart 35 miles or more (radius) from the location of the dwelling unit; (iii) is discharged or released from active duty with the armed forces of the United States or from his full-time duty or technician status with the National Guard; or (iv) is ordered to report to government-supplied quarters resulting in the forfeiture of basic allowance for quarters.

B. Tenants who qualify to terminate a rental agreement pursuant to subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date stated therein, such date to be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. The termination date shall be no more than 60 days prior to the date of departure necessary to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer. Prior to the termination date, the tenant shall furnish the landlord with a copy of the official notification of the orders or a signed letter, confirming the orders, from the tenant's commanding officer.

The landlord may not charge any liquidated damages.

C. Nothing in this section shall affect the tenant's obligations established by § 55-248.16.

D. The exemption provided in subdivision 10 of subsection A of § 55-248.5 shall not apply to this section.

(1977, c. 427; 1978, c. 104; 1982, c. 260; 1983, c. 241; 1986, c. 29; 1988, c. 184; 2000, c. 760; 2002, c. 760; 2005, c. 742; 2006, c. 667; 2007, c. 252.)

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